

UNPUBLISHED

UNITED STATES COURT OF APPEALS
FOR THE FOURTH CIRCUIT

No. 97-651

In Re: GLEN MARCUS FALLIN and ROBERT DICARLO,

Petitioners.

On Petition for Writ of Mandamus.
(MISC-97-166, CA-95-556-MJG)

Submitted: April 30, 1998

Decided: June 18, 1998

Before NIEMEYER, LUTTIG, and WILLIAMS, Circuit Judges.

Petition denied by unpublished per curiam opinion.

Glen Marcus Fallin, Columbia, Maryland, for Petitioners.

Unpublished opinions are not binding precedent in this circuit.
See Local Rule 36(c).

PER CURIAM:

Glen M. Fallin and Robert DiCarlo have filed a petition for a writ of mandamus from this court seeking, inter alia, Fallin's reinstatement on the roll of attorneys admitted to the U.S. District Court for the District of Maryland and an order directing the district court to accept DiCarlo's notice of voluntary dismissal in a civil action. Mandamus is a drastic remedy to be used only in extraordinary circumstances. See Kerr v. United States Dist. Court, 426 U.S. 394, 402 (1976). Mandamus relief is only available when there are no other means by which the relief sought could be granted, see In re Beard, 811 F.2d 818, 826 (4th Cir. 1987), and may not be used as a substitute for appeal. In re Catawba Indian Tribe, 973 F.2d 1133, 1135 (4th Cir. 1992). The party seeking mandamus relief carries the heavy burden of showing that he has "no other adequate means to attain the relief he desires" and that his entitlement to such relief is "clear and indisputable." Allied Chem. Corp. v. Daiflon, Inc., 449 U.S. 33, 35 (1980). Fallin and DiCarlo have not made such a showing.* Accordingly, we deny the petition for mandamus relief. We dispense with oral argument

* In the alternative, Fallin urges that his petition be considered a notice of appeal of the district court's order striking his name from the roll of admitted attorneys. This construction would not aid Fallin, however. Such an appeal would be dismissed as interlocutory, because Fallin is free to refile his application for admission in the district court. See Domino Sugar Corp. v. Sugar Workers Local Union 392, 10 F.3d 1064, 1066-67 (4th Cir. 1993) (if defects may be cured by amending complaint or other action, the dismissal of an action is unappealable).

because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

PETITION DENIED